
REMARKS

Claims 1-56 are currently pending in the subject application and are presently under consideration. A version of all pending claims is found at pages 3-10. Claims 1, 32 and 42 have been amended herein to emphasize novel features of the claimed invention. Claims 38-40, 44, 50-52 and 56 have been cancelled. Further, the specification has been amended to include the limitation contained in claim 42. In addition, the attached sheet of drawings includes changes to Figs. 3-6. Favorable consideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Objection to Drawings Under 37 CFR §1.83(a)

The drawings are objected to under 37 CFR §1.83(a) as failing to show every feature of the invention specified in the claims. The Examiner specifically objects to claims 50-52, stating that the features recited in the subject claims are not shown in the drawings, and further, the Examiner objects to claim 42 as failing to comport with the features recited therein.

With respect to claims 50-52, the objection is moot in light of the cancellation of the respective claims. With regard to claim 42, the objection should be withdrawn in view of the amendment made to the drawings and the amendment to the specification. Applicants' representative believes that no new matter has been added in this regard, but should Examiner *arguendo*, deem the amendments to constitute new matter, he is respectfully directed to MPEP §2163, wherein it states: "the claims as filed are part of the disclosure ... the applicant may amend the specification to include the claimed subject matter. *In re Benno*, 768 F.2d 1340, 226 USPQ 683 (Fed. Cir. 1985)".

In view of at least the foregoing, it is respectfully requested that this objection be withdrawn.

II. Objection to Claim 39

Claim 39 is objected to because it recites "the system of claim 43" where it should recite --the system of claim 38--. This objection should be withdrawn in view of the cancellation of claims 38-40.

III. Rejection of Claims 50-52 Under 35 U.S.C. §112

Claims 50-52 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. This rejection should be withdrawn for at least the following reason. Claims 50-52 have been cancelled herein and thus the rejection should be withdrawn.

IV. Rejection of Claims 42 and 54 Under 35 U.S.C. §112

Claims 42 and 54 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. In particular, the Examiner asserts that the limitations recited in dependent claims 42 and 54 respectively cannot simultaneously be true with respect to independent claim 41. This rejection should be withdrawn for at least the following reason. As recommended by the Examiner, claim 42 has been amended herein to remove the noted incongruity. Thus, it is now believed that claims 42 and 54 are in condition for allowance and that the rejection should be withdrawn.

V. Rejection of Claims 50-52 Under 35 U.S.C. §112

Claims 50-52 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. This rejection should be withdrawn for at least the following reason. The rejection is moot in view of the cancellation of claims 50-52, and thus should be withdrawn.

VI. Rejection of Claims 1-3, 5-7, 10-11, 15 and 32 Under 35 U.S.C. §102(b)

Claims 1-3, 5-7, 10-11, 15 and 32 stand rejected under 35 U.S.C. §102(b) as being anticipated by Haynes *et al.* (US 4,965,513). It is respectfully requested that this rejection should be withdrawn for at least the following reason. Haynes *et al.* does not teach or suggest each and every limitation set forth in the subject claims.

A single prior art reference anticipates a patent claim only if it expressly or inherently describes *each and every limitation set*

forth in the patent claim. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

The invention as claimed relates to a diagnostics and control system that controls a motorized system, comprising disparate motorized devices, for example, a motorized pump, fan, conveyor system, compressor, gear box, motion control device, screw pump, mixer, hydraulic or pneumatic machine, or the like. *See*, page 12, lines 19-21. In particular, independent claims 1 and 32 recite similar limitations, namely: a controller and a diagnostics system *associated with a motorized system*, the controller operating the motorized system in a controlled manner, and the diagnostics system diagnosing the health of the motorized system according to a measured attribute. Haynes *et al.* does not teach or suggest the use of a controller and a diagnostics system that is associated with such a motorized system.

Haynes *et al.* relates to a signature analysis method and apparatus for monitoring operating characteristics of a single electric motor-operated device, rather than a system of disparate electric-motor devices. In particular, Haynes *et al.* teaches “a current noise signature analysis method and apparatus for remotely monitoring the operating characteristics of *an electric motor-operated device* such as a motor-operated valve.” *See*, Abstract. It would appear that Haynes *et al.* discloses a monitoring device rather than a control and diagnostics system as recited in the subject claims. Thus, Haynes *et al.* does not teach or suggest the use of a controller and diagnostics system in the context of an associated motorized system of disparate electrical devices. Accordingly, it is requested that the rejection of independent claims 1 and 32 together with their associated dependent claims should be withdrawn.

VII. Rejection of Claims 1-7, 10-11, 15, 31-34, 36-37, 41-43, 45-47, 49 and 53-55 Under 35 U.S.C. §102(e)

Claims 1-7, 10-11, 15, 31-34, 36-37, 41-43, 45-47, 49 and 53-55 stand rejected under 35 U.S.C. §102(e) as being anticipated by Hays *et al.* (US 6,260,004 B1). It is respectfully requested that this rejection be withdrawn for at least the following reasons. Hays *et al.* does not teach or suggest each and every limitation set forth in the subject claims.

As stated *supra*, applicants' claimed invention relates to a diagnostics and control system that controls a motorized system, the motorized system comprising disparate motorized devices. Independent claims 1 and 32 as amended, and independent claim 41 recite a diagnostics and control system utilizing a controller and a diagnostics system wherein the diagnostics system provides a *diagnostic signal to the controller*. Thus, the invention as claimed is capable not only of determining the health of a motorized system in accordance with a measured attribute associated with the motorized system, but also is capable of utilizing the generated diagnostic signal in controlling the motorized system based on a communicated diagnostics signal to the controller. Hays *et al.* fails to teach or suggest the novel features set forth in the subject claims.

Hays *et al.* discloses an apparatus and method for diagnosing a pump system, wherein diagnostics are utilized to determine impending failures of the pump. Hays *et al.*, however, does not utilize diagnostics to control operation of the pump; the diagnostics as presented in Hays *et al.* is simply used to determine the point at which pump failure will occur without ever being communicated to a controller so as to allow the controller to ameliorate the load on the pump to prolong pump life. Thus, the claimed invention is distinguishable from Hays *et al.*

In view of at least the foregoing, it is respectfully requested that the rejection of independent claims 1, 32 and 41 (and claims that depend therefrom) should be withdrawn.

VIII. Rejection of Claims 38-40 Under 35 U.S.C. §102(e)

Claims 38-40 stand rejected under 35 U.S.C. §102(e) as being anticipated by Grayson *et al.* (US 5,111,431). It is respectfully requested that this rejection should be

withdrawn for at least the following reasons. The rejection is moot in light of the cancellation of claims 38-40, and accordingly should be withdrawn.

IX. Rejection of Claim 56 Under 35 U.S.C. §102(e)

Claim 56 stands rejected under 35 U.S.C. §102(e) as being anticipated by Madhavan (US 6,004,017). This rejection should be withdrawn for at least the following reasons. Claim 56 has been cancelled herein and therefore this rejection should be withdrawn.

X. Rejection of Claim 44 Under 35 U.S.C. §103(a)

Claim 44 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Hays *et al.* (US 6,260,004 B1). This rejection should be withdrawn for at least the following reason. In view of the cancellation of claim 44 the rejection should be withdrawn.

XI. Rejection of Claims 8-9, 12-14 and 16-19 Under 35 U.S.C. §103(a)

Claims 8-9, 12-14 and 16-19 stand rejected under 35 U.S.C. §103(a) as being obvious over Hays *et al.* (US 6,260,004 B1) in view of Ogi *et al.* (US 5,419,197). It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claims 8-9, 12-14 and 16-19 depend from independent claim 1, and as discussed above, Hays *et al.* fails to teach or suggest all the limitations recited in independent claim 1, and Ogi *et al.* does not make up for the deficiencies inherent in Hays *et al.* Withdrawal of this rejection is therefore requested.

XII. Rejection of Claims 20-30 and 35 Under 35 U.S.C. §103(a)

Claims 20-30 and 35 stand rejected under 35 U.S.C. §103(a) as being obvious over Hays *et al.* (US 6,260,004 B1) in view of Petsche *et al.* (US 5,640,103). This rejection should be withdrawn for at least the following reasons. Claims 20-30 depend from independent claim 1, and Petsche *et al.* does not make up for the deficiencies presented by Hays *et al.* as stated above. Accordingly, this rejection should be withdrawn.

XIII. Rejection of Claim 48 Under 35 U.S.C. §103(a)

Claim 48 stands rejected under 35 U.S.C. §103(a) as being obvious over Hays *et al.* (US 6,260,004 B1) in view of Gotou *et al.* (US 4,933,834). It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claim 48 depends from independent claim 41, and for reasons stated above, Hays *et al.* does not teach or suggest all the limitations recited in independent claim 41, and Gotou *et al.* fails to rectify those deficiencies. Withdrawal of this rejection is respectfully requested.

XIV. Rejection of Claims 50-52 Under 35 U.S.C. §103(a)

Claims 50-52 stand rejected under 35 U.S.C. §103(a) as being obvious over Hays *et al.* (US 6,260,004 B1) in view of Grayson *et al.* (US 5,111,531). This rejection should be withdrawn for at least the following reason. Claims 50-52 have been cancelled herein and thus this rejection is moot.

CONCLUSION

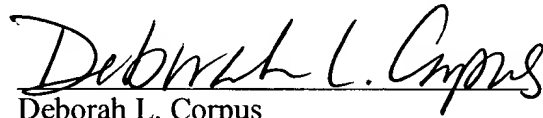
The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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